

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

KENNETH JACOBS, CO-EXECUTOR OF
THE ESTATE AND ACTING ON BEHALF
OF THE WRONGFUL DEATH
BENEFICIARIES OF WILMA JOHNSON,
DECEASED AND MARY ANN COX, CO-
EXECUTOR OF THE ESTATE OF MRS. WILMA
JOHNSON

PLAINTIFFS

VERSUS

CIVIL ACTION NO.: 2:10CV154-M-S

CITY OF HORN LAKE, MISSISSIPPI, CERTAIN
UNKNOWN POLICE OFFICERS OF THE CITY OF
HORN LAKE, MISSISSIPPI, INDIVIDUALLY (JOHN
DOE AND RICHARD DOE), TRONEY JOHNSON,
ALL-STAR SECURITY SERVICES, INC., AND BEN
SKINNER

DEFENDANTS

ORDER

BEFORE THE COURT is the Plaintiffs' Motion to Compel Discovery from defendant City of Horn Lake (#36). The defendant has not filed a response to the motion. With its motion, the plaintiffs provide that:

1. On January 31, 2011 the court entered a case management order requiring that the parties serve all pre-discovery disclosures by no later than February 14, 2011.
2. On March 18, 2011 the plaintiffs' counsel sent a letter to defense counsel regarding failure to provide initial disclosures. Prior to this good faith letter, plaintiffs' counsel attempted to contact defense counsel via e-mail and telephone.
3. The present motion was filed on April 12, 2011. Defendant served initial disclosures on April 28, 2011. These disclosures make the motion to compel

moot. The court notes, however, that the motion would have been granted and that defendant is therefore responsible for the cost to plaintiffs for filing the present motion.

IT IS, THEREFORE, ORDERED that the plaintiffs' motion to compel is **MOOT**.

IT IS FURTHER ORDERED that pursuant to Rule 37(b)(2)(C), the defendant will pay to the plaintiffs the reasonable expenses, including attorney's fees caused by their failure to comply with an order of the court and her failure to respond to the discovery propounded within the time provided by the court. The plaintiffs will provide to the court a detailed explanation of the costs, expenses, and fees incurred as a result of filing the present motion within sixty days.

SO ORDERED this 11th day of May, 2011.

/s/David A. Sanders
U.S. MAGISTRATE JUDGE